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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,240	02/14/2006	Naomi Nishikata	VPM-00101	9555
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EXAMINER				
HUYNH, NAM TRUNG				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,240

Applicant(s)

NISHIKATA ET AL.

Examiner

NAM HUYNH

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed on 7/19/10. Claims 4-10 have been amended and claims 19 and 20 have been added.

Allowable Subject Matter

1. The indicated allowability of claims 1-3 and 11-18 are withdrawn in view of the newly discovered reference(s) to Kamiya et al. (US 2006/0129628) and Bozzone (US 2005/0033515). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 3 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 3 pertains to "An application program" and does not qualify as one of the four statutory categories.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kamiya et al. (US 2006/0129628) in view of Bozzone (US 2005/0033515).

Regarding claim 1, Kamiya teaches a mobile communication terminal, comprising:

first memory means (memory of MS/ROM/RAM/nonvolatile memory) and second memory means (ROM212/application memory area 2141-k2) (hereinafter application memory area) for storing data;

an operating system (OS of MS) arranged to access data stored in said first memory means (OS controls fundamental operations such as input-output operations and inputs are stored in memory of MS);

an application execution environment (J2ME/KVM) that is executable on said operating system and that executes a platform-independent application (Java application), said platform-independent application having access to data stored in said second memory means (application memory area is used for storing data related to

Java applications therefore suggesting that the java application has access to this memory area);

detection means for detecting (input means detects button operations by the user);

memory process means for performing a memory process to store detection result data acquired based on detection results by said detection means in said first memory means (input/operations data is stored in memory of MS),

data transfer means for transferring the detection result data stored in said first memory means to said second memory means, according to a data transfer instruction from said application execution environment (The Java application utilizes operations data stored in application memory area. Operations/input data are initially stored in the memory of the MS. Therefore it is evident that the input/operation data stored in the memory of the MS is transferred to the application memory area to be executed in accordance with the Java application),

wherein said application execution environment executes said platform-independent application using the detection result data stored in said second memory means (J2ME executes Java application using operations data stored in application memory area) (paragraphs 88-101; figures 6, 7, and 9).

Kamiya teaches how input data is stored locally on a mobile station and then used by J2ME to run a Java application, but does not explicitly teach that the detection means are configured for detecting at least one of position, direction, attitude and movement of the mobile communication terminal along at least one axis of a coordinate

system; and that the detection result data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal along the at least one axis. Bozzzone discloses a wireless personal tracking and navigation system comprising a wireless device, a pedometer electrically coupled to the wireless communication device, and an electronic compass operably positioned with respect to the pedometer (abstract). Bozzzone teaches that position information received from an electronic compass, accelerometer, barometer, and/or GPS signals are used by a computer application loaded on a wireless communication device to track the location of a person or provide navigation services to a user (paragraphs 31, 32, and 37). Therefore it would have been obvious to one of ordinary skill in the art to modify the mobile station of Kamiya to include sensors that detect data concerning at least one of position, direction, attitude and movement of the mobile communication terminal along at least one axis of a coordinate system and an applications that utilizes this detection data, as taught by Sorvari, in order to provide the user with a personal navigation and tracking system. This modification would enhance user experience by allow the user to calculate walking speed and/or distance or provide navigational information, in for example, a heavily forested or deep valley area. Personal tracking systems are also known in the art to provide remote monitoring of people such as prisoners, workers in higher-risk work areas, and patients who are prone to wander and get lost.

Regarding claim 2, Kamiya teaches a mobile communication terminal according to claim 1, wherein said application execution environment has an instruction set for

generating said data transfer instruction according to description in said platform-independent application (paragraph 91; J2ME comprises instruction set for executing Java application on mobile station).

Regarding claim 3, Kamiya teaches an application program, characterized in that a computer in said mobile communication terminal according to claim 2 works so that the application execution environment generates said data transfer instruction using said instruction set, by being executed by said application execution environment (paragraph 91; J2ME is software for creating the execution environment of a Java application).

Regarding claim 4, the limitations are rejected as applied to claim 1. Bozzone further teaches the mobile station comprises an electronic compass (3-axis magnetic sensor) and an accelerometer used to detect steps (2-axis accelerometer) (paragraphs 22, 31, 32).

Regarding claims 5, 6, 7, and 11, the limitations are rejected as applied to claim 1.

Regarding claim 8, Bozzone teaches a mobile communication terminal according to claim 5, 6 or 7, further comprising:

- a radio communication device that communicates by wireless communication utilizing radio waves (paragraph 20); and

- a radio wave strength confirmation device that confirms strength of the radio waves utilized by said radio communication device at specified time intervals (GPS reception is confirmed at intervals where the user is in a place where GPS signals can not be received or are low such as a canyon or building);

wherein said data processor is used as at least one part of said radio wave strength confirmation device and performs said data process when confirming radio wave strength (when GPS is not available pedometer and electronic compass is used to supply position data to the application) (paragraph 43).

Regarding claim 9, Bozzone teaches a mobile communication terminal according to claim 4, 5, 6, or 7 wherein said detection device includes an angle detection device (electronic compass) that detects an angle against the standard angle around a virtual axis leading to a specified direction (north, south, east, west) (paragraph 22).

Regarding claim 10, Bozzone teaches a mobile communication terminal according to claim 4, 5, 6, or 7, wherein said detection device includes an acceleration detection device that detects acceleration toward a specified direction working on said mobile communication terminal (paragraph 31).

Regarding claim 12, Kamiya teaches the mobile communication terminal according to claim 11, wherein the application execution environment is executed using a processor that is the same as the memory processor (paragraphs 88-91).

Regarding claim 13, Kamiya teaches the mobile communication terminal according to claim 11, wherein the first memory (memory of MS) and the second memory are different memory locations on a memory device (application memory area) (paragraphs 89, 94).

Regarding claim 14, Bozzone teaches the mobile communication terminal according to claim 11, wherein the at least one sensor includes at least one of: a magnetic sensor and an acceleration sensor (paragraphs 31, 32).

Regarding claim 15, Bozzone teaches the mobile communication terminal according to claim 14, wherein the at least one sensor includes a geomagnetic sensor (paragraph 31).

Regarding claim 16, Bozzone teaches the mobile communication terminal according to claim 11, wherein the coordinate system includes a spatial three-axis coordinate system (paragraph 22).

Regarding claim 17, the combination of Kamiya and Bozzone teaches the mobile communication terminal according to claim 11, wherein execution of the platform-independent application using the detection result data (Kamiya; paragraphs 88-101) includes displaying an action on a display of the mobile communication terminal that corresponds to a change in the at least one of position, direction, attitude and movement of the mobile communication terminal (Bozzone; paragraph 46).

Regarding claim 18, the combination of Kamiya and Bozzone teaches the mobile communication terminal according to claim 11, wherein execution of the platform-independent application (Kamiya; paragraphs 88-101) using the detection result data (Bozzone; paragraphs 31, 32, and 37) includes causing at least a portion of the platform-independent application to stop executing in response to a change in the at least one of position, direction, attitude and movement of the mobile communication terminal (Bozzone; paragraph 43; in the combination of the two inventions the program would stop executing the processing of GPS signals when the user is in a place where GPS signals are unavailable or unreliable).

Regarding claim 19, Bozzone teaches a mobile communication terminal according to claim 1 wherein said detection device includes an angle detection device (electronic compass) that detects an angle against the standard angle around a virtual axis leading to a specified direction (north, south, east, west) (paragraph 22).

Regarding claim 20, Bozzone teaches a mobile communication terminal according to claim 1, wherein said detection device includes an acceleration detection device that detects acceleration toward a specified direction working on said mobile communication terminal (paragraph 31).

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Nam Huynh/
Examiner, Art Unit 2617